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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,772	12/13/2006	Walter Wolf	016906-0490	2539
22428 7590 05/21/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER PATEL, KIRAN B	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 05/21/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,772

Applicant(s)

WOLF, WALTER

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 10-11, 21-22, 27-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9, 12-20, 23-26 and 30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

DETAILED ACTION

Non-Final Rejection (5/20/08)

Election/Restriction

1. Applicant's election without traverse of Species D, Claims 1-9, 12-20, 23-30, is acknowledged.

Claims 10-11, 21-22, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

Further, Claims 3-6, 27-29 are withdrawn by the Examiner from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Following are few examples (a structural element, particularly a hybrid structural element, for a cross member of a vehicle; the flow-guiding means is executed as a smoothing element; the flow-guiding means is executed as a deflection element; the deflection element extends from a layer of plastic on the inner wall in the form of an arc into the cavity of the base body; the deflection element is executed separately and is joined to the plastic layer; the combined guiding and reinforcing element is formed by a channel element, a deflection element arranged in the channel element, and at least one reinforcing element supported by the channel element against the base body; the channel element exhibits a reducing cross section viewed in the direction of the flow tap; the deflection element extends from the channel element in the form of an arc and closes this in the vicinity of the flow tap at the end of the combined guiding and reinforcing element and discharges into an opening in the base body; What is the difference between the channel element and the channel?; the flow-guiding means is executed at least partially or completely separately and is capable of being introduced into the base body; a plurality of flow-guiding means in particular a smoothing element, a deflection element and/or a combined guiding and reinforcing element, are arranged in a single flow tap; the flow-guiding means discharges in the vicinity of the flow tap into an opening in the base body; the base body is lined in areas with a material of varying wall thickness that has been caused to foam by physical or

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Deleted: <#>Applicant's election with traverse of Invention A, Claims 1-11, Species A, Fig 1-4 claims 1-13, 15-20 is acknowledged. The traversal is on the grounds that search for the additional inventions and/or Species would not create an undue burden upon the Examiner. ¶ Claims 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim. ¶ Further, Claims 4 are withdrawn by the Examiner from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species. ¶ The requirement is still deemed proper and is therefore made FINAL. ¶

¶ <#>During a telephone interview with Attorney/Agent Chumey the election was further amended and Claims 17-18 were withdrawn from further consideration as they read on non-elected inventions/species/embodyments. ¶

Specification¶

¶ <#>The disclosure is objected ... (1)

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Art Unit: 3612

chemical means) of the limitations which must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Above are just few examples and therefore, the Applicant is requested to go through the application and ensure that all claimed limitations are shown in the drawing in such a way as to convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 7-9, 12-20, 23-26, 30, as best understood, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recite "a structural element, particularly a hybrid structural element, for a cross member of a vehicle", "at least one flow tap (8a to 8e)" is not the elected flow tap 8a in Fig 4. These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 2 recite "the flow-guiding means is executed as a smoothing element". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 7 recite "the flow-guiding means is executed as a deflection element". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 8 recite "the deflection element extends from a layer of plastic on the inner wall in the form of an arc into the cavity of the base body". These

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the sheet. (3)

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Art Unit: 3612

limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 9 recite "the deflection element is executed separately and is joined to the plastic layer". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

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Claim 13 recite "the combined guiding and reinforcing element is formed by a channel element, a deflection element arranged in the channel element, and at least one reinforcing element supported by the channel element against the base body". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

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Claim 14 recite "the channel element exhibits a reducing cross section viewed in the direction of the flow tap". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 1 recite "wherein said cowl member also includes left and right side openings formed therein, and extending in the longitudinal direction on opposing sides thereof, and left and right side openings traversing an upper portion of the radiator, from a side view thereof, such that said left and right side openings communicate with one another in a width wise direction of the motorcycle, for allowing air to pass therethrough". There are number of "left and right side openings" which openings are being claimed. Limitation "left and right side openings traversing in upper portion of the radiator" is not clearly described in the specification.

Claim 15 recite "the deflection element extends from the channel element in the form of an arc and closes this in the vicinity of the flow tap at the end of the combined guiding and reinforcing element and discharges into an opening in the base body". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

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Claims 16-17 recite "the channel" and "the channel element". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

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Claim 18-20 recite limitations "the flow-guiding means is executed at least partially or completely separately and is capable of being introduced into the base body"; "a plurality of flow-guiding means in particular a smoothing element, a deflection element and/or a combined guiding and reinforcing element, are arranged in a single flow tap" and "the flow-guiding means discharges in the vicinity of the flow tap into an opening in the base body". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

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Claim 25-26 recite limitations "the base body exhibits a wall thickness that varies in different areas" and "the base body is lined in areas with a material of varying wall thickness that has been caused to foam by physical or chemical

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Art Unit: 3612

means". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Claim 30, recite limitations "a structural element as claimed in claim 1 as a structural element in a vehicle, in particular as a hollow structural element". These limitations are not fully explained in the specification and/or not clearly shown in the figures to show that the Applicant had possession of the claimed invention.

Above are just few examples of the discrepancies and therefore the Applicant is requested to go through the application and ensure that the claimed matter has been described in the specification and shown in the drawing in such a way as to convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1-2, 7-9, 12-20, 23-26, 30, as best understood, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-2, 7-9, 12-20, 23-26, 30, recitations "particularly" "particular" and "executed" fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 recitations "the inner wall in the form of an arc into the cavity of the base body" lack antecedent basis and fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Above are just few examples of the discrepancies and therefore the Applicant is requested to go through the application and ensure that the claimed matter has been described in the specification and shown in the drawing in such a way as to convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Correction is required.

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Regarding

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Claims, elected for prosecution, are confusing and are not clear because reference characters "4, 5," and "6" have both been used to designate structural elements, which fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention.¶

Claims, elected for prosecution, are confusing and are not clear because reference character "6" has been used to designate both "one element in claim 2" and "first element in claim 9", which fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. ¶
Claims, elected for prosecution, are confusing and are not clear because reference character "15" has been used to designate both "an attachment tab in Claim 10" and "a section in Fig 2", which fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. ¶

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¶¶-Claims are confusing and are not clear because claimed limitations, (Claim 1.; Claim 2.; Claim 3.; ... [6]

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Art Unit: 3612

Claim Rejections - 35 USC § 102(b)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 12, 16-17, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Reddig et al. (6,955,394).

Regarding Claims 1-2, 12, 16-17, Reddig et al. (6,955,394) discloses the invention as claimed to include a base body 12 at least partially lined with plastic 20, which is provided with at least one flow tap 34, in conjunction with which the base body is provided, in the area of the flow tap, with a flow-guiding means Fig. 1; the flow-guiding means is executed as a smoothing element Fig. 1; the flow-guiding means is executed as a combined guiding and reinforcing element Fig. 1; a plurality of reinforcing elements are arranged in the form of transverse ribs in the cavity formed between the channel element and the base body Fig. 1; the angle of the transverse ribs runs perpendicular to the channel Fig. 1.

Conclusion

6. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

7. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Kiran B. Patel/

Kiran B. Patel, P.E.
Primary Examiner
Art Unit 3612
May 20, 2008

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Claim Rejections - 35 USC § 102(e)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:¶

A person shall be entitled to a patent unless --¶

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.¶

¶ The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).¶

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